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**Please return to:
Planning & Development**

STORY COUNTY IOWA

ORDINANCE NO. 311

**AN ORDINANCE AMENDING CHAPTER 85, GENERAL PROVISIONS AND DEFINITIONS,
AND CHAPTER 86, DISTRICT REQUIREMENTS OF THE STORY COUNTY LAND
DEVELOPMENT REGULATIONS, OF THE STORY COUNTY CODE OF ORDINANCES.**

WHEREAS, under Section 335.3, Code of Iowa, the Board of Supervisors may by ordinance regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, located within the county but lying outside of the corporate limits of any city; and

WHEREAS, under Section 335.4, Code of Iowa, the Board of Supervisors may divide the county, or any area or areas within the county, into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of the chapter; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land; and

WHEREAS, on September 2, 1958, the Board of Supervisors of Story County, Iowa, adopted a Land Development Regulations Ordinance ("the Ordinance") in accordance with a comprehensive plan and as permitted and specifically authorized in Chapter 335 and Chapter 354 of the Code of Iowa; and

WHEREAS, the Ordinance is intended and designed to meet the specific objectives of Section 335.5, Code of Iowa, including to encourage efficient urban development patterns and to prevent the overcrowding of land; and

WHEREAS, under Section 85.02 Scope and Purpose of the Ordinance, it is the purpose of the Ordinance to provide for a balance between the review and regulation authority of Story County governmental agencies concerning the division and subdivision of land and the rights of landowners; and

WHEREAS, under Section 85.02 Scope and Purpose of the Ordinance, it is, therefore, determined to be in the public interest to provide for a balance between the land use rights of individual landowners and the economic, social, and environmental concerns of the public when a city or the county is developing or enforcing land use regulations outside corporate limits; and

WHEREAS, under Section 85.02 Scope and Purpose of the Ordinance, it is, therefore, determined to be in the public interest to insure orderly development and provide for the regulation and control of the extension of public improvements, public services, and utilities, the improvement of land, and the design of subdivisions, consistent with approved comprehensive and/or other specific area plans outside corporate limits; and

WHEREAS, in order to carry out the purpose and intent of the Ordinance, the unincorporated area of Story County, Iowa, is divided into the following base district classifications:

- A-1 Agricultural District
- A-2 Agribusiness District
- A-R Agricultural/Residential District
- R-1 Transitional Residential District
- R-2 Urban Residential District
- RMH Residential Manufactured Housing District
- C-LI Commercial/Light Industrial District
- HI Heavy Industrial
- GB-C Greenbelt-Conservation District; and

WHEREAS, 98% of the unincorporated area of Story County is zoned A-1 Agricultural; and

WHEREAS, on May 18, 1785, the United States Continental Congress adopted what is known as the Land Ordinance of 1785 to lay out the process by which the lands west of the Appalachian Mountains, were to be surveyed and sold, known as the Public Land Survey System; and

WHEREAS, the Public Land Survey System divided land into townships of six square miles, each township divided respectively into thirty-six sections of one-square mile, and each section further divided by half and quarter sections, and each quarter section further divided by half and quarter sections, resulting in the smallest division of land being a quarter-quarter of a section or one-quarter mile by one-quarter mile (40-acres); and

WHEREAS, recognizing this established, historic pattern of land division, on June 30, 1977, the Board of Supervisors of Story County, Iowa, amended the Ordinance and adopted a 35 net-acre minimum lot size in the A-1 Agricultural Zoning District; and

WHEREAS, under Section 85.02 Scope and Purpose of the Ordinance, the Ordinance is also intended and designed to meet, to the greatest extent possible within its scope, the vision, goals, objectives, principles and policies of the Cornerstone to Capstone (C2C) Comprehensive Plan ("the Plan"); and

WHEREAS, the Board of Supervisors adopted the Cornerstone to Capstone (C2C) Comprehensive Plan on June 7, 2016, for orderly growth and development in the unincorporated areas of Story County including through the Plan's goals and strategies for Story County to guide future actions and decisions, provide predictability and consistency over time, and create and delineate future land use designations for unincorporated areas of the County; and

WHEREAS, to facilitate the orderly development, use, and preservation of land in unincorporated Story County, the Board of Supervisors established a Future Land Use Map with a set of land use designations and strategies specific to each designation as part of the adoption of the Plan; and

WHEREAS, the Plan has adopted the areas identified by communities in Story County for future

growth and identified them with the Urban Expansion Area Designation on the Future Land Use Map; and

WHEREAS, the Plan has also adopted areas known as Agricultural Conservation Areas to preserve prime farmland, identified them on the Future Land Use Map, and adopted principles for the designation including “design areas identified for development to limit conflicts between agricultural uses and rural residences and other types of land uses. Through development practices preserve and protect prime agricultural lands and the ability to engage in agricultural activities;” and

WHEREAS, the Plan has also adopted areas known as Rural Residential Areas and identified them on the Future Land Use Map to offer rural housing market choices and identify existing residential land uses that “provide a desirable housing market worthy of both protection and cultivation; and

WHEREAS, the Plan’s goals provide for emergency planning, and an associated strategy, to collaborate with local agencies and organizations to inform Story County about disaster preparedness; and

WHEREAS, the State of Iowa through Iowa Code chapter 29C requires the County and cities within the County to participate in and fund county-level emergency response planning for natural and human-caused disasters through the emergency management commission and agency, to support disaster response and establish emergency communication measures to alert County residents of threats to their lives and wellbeing; and

WHEREAS, the Plan’s adopted goals for cultural resources include “new development in the unincorporated areas of Story County respects and enhances the area’s rural character” and an associated strategy is to “encourage utilities to be sited and designed to minimize impacts on adjacent uses;” and

WHEREAS, the Plan’s adopted goals for infrastructure and utilities are to “ensure utility infrastructure protects public health, as well as the county’s natural and agricultural resources and rural character;” and

WHEREAS, the Plan’s adopted goals include those for intergovernmental coordination, to coordinate with cities’ long-term growth plans and to “identify existing and potential conflicts, especially regarding land use planning, and establish procedures to address them” and a related strategy to “encourage an efficient and compatible land use pattern that minimizes conflicts between land uses across municipal boundaries and preserves farming and natural resources in mutually agreed areas;” and

WHEREAS, the Plan’s adopted goals include for land use and to “ensure that land use transitions are gradual or designed to reduce potential incompatibilities among land uses” with an associated strategy to “establish design and development standards to enhance collaboration between development, agriculture, and natural and recreation resources;” and

WHEREAS, the Plan’s adopted goals for land use also include an associated strategy to “ensure new development is setback an adequate distance from existing and proposed major utility transmission lines and pipelines;” and

WHEREAS, the federal Pipeline Safety Act in 49 U.S.C. § 60101 et seq. authorizes the United States Department of Transportation to regulate safety standards for the design, construction, operation, and maintenance of hazardous liquid pipelines, including those that transport supercritical carbon dioxide, but § 60104(e) of this law states that “[t]his chapter does not

authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility,” such that no federal regulation determines the location or route of a hazardous liquid pipeline; and

WHEREAS, in Iowa, the Iowa Utilities Board (“the IUB”) has authority pursuant 49 U.S.C. § 60104(e) of the Hazardous Liquid Pipeline Safety Act and under Iowa Code chapter 479B to implement certain controls over hazardous liquid pipelines, including the authority to approve the location and routing of hazardous liquid pipelines; and

WHEREAS, under Iowa Code § 479B.4, a pipeline company must file a verified petition with the IUB asking for a permit to construct, maintain, and operate a new pipeline along, over, or across the public or private highways, grounds, waters, and streams of any kind in this state; and

WHEREAS, Iowa Code § 479B.5 requires that each petition for a permit must state the relationship of the proposed project to the present and future land use and zoning ordinances; and

WHEREAS, Story County’s zoning regulations in effect prior to October 2022 did not provide that a hazardous liquid pipeline is a principal permitted use in A-1 Agricultural or other zoning districts; and

WHEREAS, the County intends to amend the Ordinance to adopt standards, including setbacks, for hazardous liquid pipelines consistent with (1) historic patterns of development; (2) goals of the Plan for protection of (a) the County’s rural character, (b) reduction of incompatibilities between land uses including utilities, (c) intergovernmental coordination related to future urban development, (d) appropriate siting of new development, (e) preservation of existing rural residential development, (f) communication and collaboration with partnering agencies and organizations on emergency preparedness; and (3) to achieve the intent and purpose of the Ordinance to ensure orderly growth and development and address social, economic, and environmental concerns related to conflicts between different uses of land.

NOW THEREFORE, BE IT ENACTED BY THE SUPERVISORS OF STORY COUNTY, IOWA:

Section 1. Purpose. An Ordinance amending Chapter 85, General Provisions and Definitions, and Chapter 86, District Requirements, of the Story County Code of Ordinances – Land Development Regulations to establish setback requirements for hazardous liquid pipelines.

Section 2. Proposed Amendments. The amendments are as shown in Attachment A of this ordinance and are summarized below.

Chapter 85.08: Definitions: Striking definitions related to hazardous materials pipelines, adopting a new definition of pipeline, and adopting a definition of hazardous liquid.

Chapter 86: Adopting hazardous liquid pipelines as a principal permitted use in the A-1 Agricultural District and striking hazardous materials pipelines as a principal permitted use. Adopting supplemental standards for hazardous liquid pipelines including a quarter-mile setback and a requirement to submit a copy of any emergency response or preparedness plan, if required by the Pipeline and Hazardous Materials Safety Administration.

Section 3. Repealer. All ordinances or parts, of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. Severability Clause. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 5. Effective Date. This ordinance shall be effective after its final passage, approval and publication of the ordinance or a summary thereof, as provided by law.

Action upon FIRST Consideration: _____

DATE: May 16, 2023

Moved by: _____

Seconded by: _____

Voting Aye: _____

Voting Nay: _____

Not Voting: _____

Absent: _____

Action upon SECOND Consideration: _____

DATE: May 23, 2023

Moved by: _____

Seconded by: _____

Voting Aye: _____

Voting Nay: _____

Not Voting: _____

Absent: _____

Action upon THIRD Consideration: _____

DATE: May 30, 2023

Moved by: _____

Seconded by: _____

Voting Aye: _____

Voting Nay: _____

Not Voting: _____

Absent: _____

ADOPTED THIS ____ day of _____, _____.

Chairperson, Board of Supervisors

Attest:

County Auditor

| | | | | |
|---------------|----------------|--------|--------|-----------|
| ROLL CALL | Latifah Faisal | Yea___ | Nay___ | Absent___ |
| FOR ALLOWANCE | Lisa Heddens | Yea___ | Nay___ | Absent___ |
| | Linda Murken | Yea___ | Nay___ | Absent___ |

ALLOWED BY VOTE
OF BOARD

Yea___Nay___Absent___

CHAIRPERSON

Above tabulation made by ____

Attachment A

CHAPTER 85

LAND DEVELOPMENT REGULATIONS: GENERAL PROVISIONS AND DEFINITIONS

85.07 EXEMPTIONS.

The following exemptions may apply to certain types of development located in unincorporated Story County; however, such uses shall not be exempt from the standards set forth in Chapter 87 – Land Division Requirements, or exempt from adopted Floodplain Management Ordinance (codified in Chapter 80 of this Code of Ordinances).

3. Public Utilities Exempt. No requirement, restriction, or regulation contained in the Ordinance shall be construed to control the type or location of any poles, towers, wires, water or sewer lines, gas mains, cables, or any other similar distributing equipment of a public utility. County, state, and federal road projects for the maintenance and/or construction of public roads and public road right-of-way shall also be considered exempt.

85.08 DEFINITIONS.

~~“Hazardous Materials” means those materials listed on the Hazardous Materials Table in 49 Code of Federal Regulations (CFR) § 172.101.~~

“Hazardous Liquid” means the same as defined in Iowa Code § 479B.2, as amended, and includes crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.

“Pipeline” means the same as defined in Iowa Code § 479B.2, as amended, and includes an interstate pipe or pipeline and necessary appurtenances used for the transportation or transmission of hazardous liquid. ~~means all parts of those physical facilities through which a gas or liquid moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.~~

~~“Immediately Dangerous to Life or Health” means an atmospheric concentration of any toxic, corrosive, or asphyxiant substance that poses an immediate threat to life or would cause irreversible or delayed adverse health effects or would interfere with an individual's ability to escape from a dangerous atmosphere, as determined by the National Institute for Occupational Safety and Health or other professionally accepted source.~~

~~“Professionally accepted level of concern threshold” means those levels of a hazardous material that federal regulatory agencies, such as the Occupational Safety and Health Administration (OSHA), National Institute for Occupational Safety and Health (NIOSH), or industry professionals have recognized as the threshold for being immediately dangerous to life or health. If industry professionals or federal regulatory agencies differ on a recognized threshold, whichever threshold is stricter shall apply.~~

“Public Utility” means a public utility as defined in the Iowa Code Chapter 476.1 and municipally owned waterworks or wastewater facilities, waterworks having less than two thousand customers, joint water utilities established pursuant to Iowa Code Chapter 389, rural water districts incorporated and organized pursuant to Iowa Code Chapters 357A and 504, cooperative water associations incorporated and organized pursuant to Iowa Code Chapter 499, districts organized pursuant to Iowa Code Chapter 468, or a person furnishing electricity to five or fewer customers either by secondary line or from an alternate energy production facility or small hydro facility, from electricity that is produced primarily for the person’s own use.

CHAPTER 86

LAND DEVELOPMENT REGULATIONS: DISTRICT REQUIREMENTS

Amending the following Principal Permitted Use in 86.04(2), A-1 Agricultural District:

Hazardous ~~Materials~~ Liquid Pipelines, meeting the supplemental standards in 86.16.

Amending the following Principal Permitted Use in 86.05(2), A-2 Agribusiness District; 86.10(2), C-LI Commercial/Light Industrial District; and 86.11(2) HI Heavy Industrial District:

~~Hazardous Materials Pipelines, meeting the supplemental standards in 86.16.~~

Amending 86.16 as follows:

86.16 Supplemental Standards for Certain Principal and Accessory Uses.

1. Hazardous ~~Materials~~ Liquid Pipelines. Proposed hazardous ~~materials~~ liquid pipelines shall meet the following standards. These standards do not apply to ~~pipelines operated by public utilities or existing pipelines.~~

A. Setbacks Required.

- (1) A setback of one-quarter mile shall be required from dwellings, areas zoned A-R Agricultural Residential, R-1 Transitional Residential, R-2 Urban Residential, RMH Residential Manufactured Housing District, C-LI Commercial/Light Industrial District, HI Heavy Industrial District, retirement and nursing homes, family homes, schools, childcare homes and centers, group homes, hospitals, detention facilities, human service facilities, campgrounds, day camps, cemeteries, stables, amphitheaters, shooting ranges, golf courses, stadiums, parks, houses of worship, and auditoriums.
- (2) A setback of one-quarter mile shall also be required from city boundaries and areas identified as Urban Expansion by the C2C Plan Future Land Use Map.
- (3) The setback shall be measured from the pipeline to the closest point of the building or property line, depending on the identified use type.

B. Critical Natural Resource Area Protections Required. If installation of a hazardous liquid pipeline is permitted by Chapter 88.05, only trenchless

construction methods shall be permitted including in required buffer areas from a critical natural resource.

- C. Emergency Plan. A copy of an emergency response or preparedness plan shall be submitted to assist with the County's emergency response planning. The plan may be a preliminary or draft version of an emergency response plan that would meet the requirements of the federal Pipeline and Hazardous Materials Safety Administration. The County will determine whether the information in the plan is sufficient for the County to plan its own emergency response and may request additional information.
- D. Authorizations Required. Any person proposing to construct a hazardous liquid pipeline shall obtain all required federal, state, and local permits and any private easements or other land use permissions prior to commencing construction and submit documentation of such authorizations with the permit application.

~~The setbacks listed in Table 86-11 shall apply to all new hazardous materials pipelines. When an emergency plan is submitted meeting the following requirements, the minimum setback may be reduced to the point at which no occupied structure is located within a risk area. A risk area is the area where a professionally accepted level of concern threshold (where the concentration or other effect of a material is immediately dangerous to life or health) may be exceeded. The Story County Emergency Management Coordinator shall review the emergency plan with local emergency personnel, as applicable, to ensure standards are met. An emergency plan shall include the following:~~

- ~~(1) A copy of all emergency plans required by 49 CFR § 195 and/or 49 CFR § 192.~~
- ~~(2) Identification of Emergency Events. The plan shall outline the types of potential emergency events, the operator's ability to respond, and when local emergency response may be needed.~~
- ~~(3) Immediate Actions Identification. The Plan shall identify immediate actions to be taken by the operator in emergency events, including immediate shut down or pressure reduction.~~
- ~~(4) Notification. The plan shall identify how the operator will promptly and effectively notify local emergency responders. The plan shall also establish a liaison and emergency contact for the pipeline operator in case local authorities need to notify the operator of an emergency or other issue.~~
- ~~(5) Local Emergency Response. In the case that local emergency response is needed, the plan shall identify:~~
 - ~~i. Unique risks or hazards associated with a leak of a hazardous material transported by the pipeline that may affect the local emergency response or require additional precautions.~~
 - ~~ii. Specialized equipment that may be needed to assist in response and potential evacuations, including, but not~~

- limited to, breathing apparatus, personal protective equipment, harnesses, instruments, detectors, or other specialized tools. It is strongly recommended that the pipeline operator provide any specialized equipment to local emergency responders.
- iii. Drills and training, including their frequency, to be provided to local emergency responders by the pipeline operator.
- (6) Modeling. The plan shall contain model(s) of plume dispersion, leaks, vapor cloud, or overpressure for the potential range of loss-of-containment events. The model(s) shall be based on prevailing weather conditions. The model(s) shall also account for any unique topographic or other local conditions that may influence the area impacted. The model(s) shall include professionally accepted level of concern thresholds and the radius or other distance from the center of the loss of containment event where they are predicted to be found. Thresholds should be based on levels of a given hazard (thermal, radiological, asphyxiation, chemical, etiological, mechanical, etc.) that are immediately dangerous to life or health.
- (7) Evacuation. The plan shall provide a list of dwellings and places of public assembly, as defined by Table 86-11, within one (1) mile of the pipeline to be used by local emergency responders in case an evacuation is needed. The pipeline operator shall also mail notice to the identified dwellings and places of public assembly at the time of the permit application, including information on risks, precautions, and what to do in case of loss of containment. Annual notifications are recommended.

Table 86-11 Setback Requirements for Hazardous Materials Pipelines

| Hazardous Materials Pipeline Type and Use Type | Setback* |
|--|---|
| Gas | |
| Residential Developments and Places of Public Assembly** | For natural gas, the circle formed around the center point of a pipeline, the radius of which is $r = .69 \times (\sqrt{p \times d^{2.7}})$ where r is the radius in feet, p is the maximum operating pressure, and d is the nominal diameter of the pipeline in inches. For other gases, the factor used in the equation (.69) shall instead be the factor in section 3.2 of ASME/ANSI B31.8S. For example, a 24 inch, 1,200 psi natural gas pipeline would require a setback of 574 feet. |
| Dwellings and Other Development | For natural gas, the circle formed around the center point of a pipeline, the radius of which is $r = .69 \times (\sqrt{p \times d^{2.7}})$ where r is the radius |

| | |
|--|--|
| | in feet, p is the maximum operating pressure, and d is the nominal diameter of the pipeline in inches when using the aforementioned formula and the computed radius is over 660 feet. For other gases, the factor used in the equation (.69) shall instead be the factor in section 3.2 of ASME/ANSI B31.8S. |
| Liquid | |
| Residential Developments and Places of Public Assembly** | As established in 49 CFR § 195, no pipeline may be located within 50 feet (15 meters) of any private dwelling, or any industrial building or place of public assembly in which persons work, congregate, or assemble, unless it is provided with at least 12 inches (305 millimeters) of cover in addition to that prescribed in 49 CFR § 195.248. |
| Dwellings and Other Development | As established in 49 CFR § 195, no pipeline may be located within 50 feet (15 meters) of any private dwelling, or any industrial building or place of public assembly in which persons work, congregate, or assemble, unless it is provided with at least 12 inches (305 millimeters) of cover in addition to that prescribed in 49 CFR § 195.248 |
| Carbon Dioxide, Dense or Supercritical Phase*** | |
| Residential Developments and Places of Public Assembly** | The circle formed around the center point of a pipeline, the radius of which is $r = (155.80 \times d) + 738.19$ where r is the radius in feet, and d is the nominal diameter of the pipeline in inches. For example, a six inch pipeline would require a setback of 1,673 feet. |
| Dwellings and Other Development | The circle formed around the center point of a pipeline, the radius of which is $r = (107.65 \times d) + 328.08$ where r is the radius in feet, and d is the nominal diameter of the pipeline in inches. For example, a six inch pipeline would require a setback of 974 feet. |

* The setback shall be the distance identified under the setback column in Table 86-11 measured from the pipeline to the closest point of the building or property line, depending on the identified use type.

*** As referenced in Table 86-11, Residential Developments and Places of Public Assembly are areas zoned A-R Agricultural Residential, R-1 Transitional Residential, R-2 Urban Residential, or RMH Residential Manufactured Housing District; areas where there are more than four dwellings per quarter-quarter section; places of public assembly where evacuation of occupants may present difficulties, including, but not limited to, retirement and nursing homes, family

homes, schools, childcare homes and centers, group homes, hospitals, detention facilities, or human service facilities; outdoor places of public assembly, including, but not limited to, campgrounds, day camps, cemeteries, stables, amphitheaters, shooting ranges, golf courses, stadiums, and parks that may be occupied by 20 or more persons at least 50 days per year; and indoor places of public assembly including, but not limited to stores, workplaces, houses of worship, and auditoriums that may be occupied by 20 or more persons five days per week.

***Supercritical or dense phase carbon dioxide is that which is held above its critical pressure and temperature in a fluid state.

- ~~B. Minimum Cover Required. Minimum cover requirements, as established by 49 CFR § 192.327 and § 195.248 shall be met. Where federal law does not define a minimum depth of cover and land is in agricultural production, a minimum depth of 36 inches or greater shall be maintained. A greater depth shall be required when determined necessary to withstand external loads anticipated from deep tillage of 18 inches, as required by Iowa Administrative Code Chapter 9.5(6), Restoration of Agricultural Lands During and After Pipeline Construction.~~
- ~~C. Critical Natural Resource Area Protections Required. An undisturbed buffer meeting the requirements of Chapter 88.05 Environmental and Natural Resource Standards shall be maintained from a Critical Natural Resource Area. An application for a pipeline shall demonstrate why rerouting around a Critical Natural Resource Area is unavoidable, if proposed. When unavoidable, and if permitted by Chapter 88.05 Environmental and Natural Resource Standards, only trenchless construction methods shall be permitted. When trenchless construction is permitted, trenchless methods are also required to be used in the undisturbed buffer areas established in Chapter 88.05 Environmental and Natural Resource Standards.~~
- ~~D. New Development Consultation Required. When a rezoning, minor or major subdivision, or other permit for a place of public assembly, as defined by Table 86-11 is proposed within the required setback for new pipelines, consultation with the pipeline operator on the potential risks shall be required.~~